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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,673	04/16/2001	Wolfgang Buchalla	ARE0005	8209

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EXAMINER

WILSON, JOHN J

ART UNIT PAPER NUMBER

3732

DATE MAILED: 01/13/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,673

Applicant(s)

BUCHALLA ET AL.

Examiner

John J. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-30 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meller (4642738) in view of Bianchetti (6095810). Meller shows a housing having a drill bit 32 and light source 40 for directing light in a direction along which the drill bit protrudes. Meller does not show using light having a wavelength operable to produce tooth luminescence. Bianchetti teaches supplying light to a tool at a desired wavelength of 450-470 nm, column 2, lines 9-12. It would be obvious to one of ordinary skill in the art to modify Meller to include using light at this range in order to better see the desired characteristic. As to claim 2, Meller does not show the use of fiber optics to connect the light source to an opening. Bianchetti teaches using an illumination guide 15. It would be obvious to one of ordinary skill in the art to modify Meller to include a fiber optic connector as shown by Bianchetti in order to guide light to the desired location. As to claims 4 and 5, the specific wavelength used is an obvious matter of choice in the degree of a known parameter used to the skilled artisan. As to claim 6 and 10, to use the bulb to filter light that is emitted is well known in the art of making bulbs. As to claim 7 and 11, Meller does not show a semiconductor device. Bianchetti teaches using a

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semiconductor device LED 11. It would be obvious to one of ordinary skill in the art to modify Meller to include the use of a semiconductor device as shown by Bianchetti in order to make use of known ways of delivering light to a desired work area.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meller (4642738) in view of Bianchetti (6095810) as applied to claim 1 above, and further in view of Schuss (4498868). The above combination does not show the use of a glass rod. Schuss teaches using a glass rod 45, Fig. 7, to provide light in a dental handpiece. It would be obvious to one of ordinary skill in the art to modify the above combination to include the use of a glass rod as shown by Schuss in order to make use of art known ways to provide light in dental handpieces.

Allowable Subject Matter

Claims 15-30 are allowed.

Response to Arguments

Applicant's arguments filed October 27, 2003 have been fully considered but they are not persuasive. The rejections based on Bianchetti as the base reference have been dropped. With respect to the rejections based on Meller in view of Bianchetti, applicant argues that because Meller is directed to a drill and Bianchetti is directed to a device for removing tartar and plaque the combination is not obvious. The combination is obvious because the references are analogous art and therefore the combination is

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suggested by the references. Analogous art is art that is from the same art and/or is art that is directed to solving the same problem. Bianchetti is analogous art because it is directed to the same field of art, dentistry and the removal of material from a tooth, and also it is directed to solving the same problem of how best to provide a user with the ability to distinguish the material to be removed. Applicant's offer to submit a Declaration under 37 C.F.R. 1.132 to show that a device for removing tartar and plaque is incapable of excavating is noted, however, the present rejection, and remarks, see above, shows that Bianchetti is analogous art even though it is directed to removing a different type of material.

Conclusion

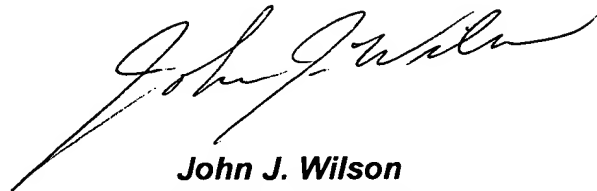
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.

A handwritten signature in black ink, appearing to read "John J. Wilson". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

John J. Wilson
Primary Examiner
Art Unit 3732

jjw

January 12, 2004

Fax (703) 308-2708

Work Schedule: Monday through Friday, Flex Time